FREEDOMWORKS

FRANCHISE REFORM: MYTHS AND REALITY

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Myth: Franchise reform is a David vs. Goliath battle.

Reality: Those that oppose statewide or national video franchising assert that telecommunications reforms are bankrolled by telephone companies such as AT&Tor Verizon. In doing so, opponents cast the issue of franchise reform as one where the telecom giants try to squelch the consumers, a veritable David vs. Goliath struggle.

But nothing could be further from the truth. For one, incumbent cable television companies, like Comcast and Cox, are investing heavily in a huge public relations campaign—replete with television ads and websites—to oppose statewide or national franchising. And for good reason: local franchise laws make it harder for new video service programmers, like telephone and power companies, to enter the market and compete. In many municipal jurisdictions, the incumbent cable companies enjoy limited competition, largely due to local franchise laws that make it expensive and difficult for competitors to enter the market.

At any rate, it is unimportant to the franchise debate which industry supports what policy. Franchise reform should be judged on its objective merits – its record of driving down costs, the ease with which consumers can access new technology, its potential to spur innovation, and so on. Guilt-by-association fallacies, which happen to be false in the first place, have no place in a policy debate where results —not low level demagoguery—are the real measuring stick.

Myth: Once telephone companies are able to compete with cable television companies, telephone rates will increase.

Reality: In the states that have enacted video franchise reform, there has been no evidence for the incredible claim that phone rates have risen. Since there is no evidence, opponents resort to speculation: since some franchise proposals give telephone companies the freedom to raise their rates, rates will increase. But that ignores what's actually happening. In the Indiana telecom reform legislation, for example, a company can raise basic local phone rates only after it offers broadband access to 50 percent of homes within that local exchange, and those rate increases can only occur incrementally.

But notice the jump in logic: opponents assume that because telephone companies *can* raise rates, they *will* raise rates. It doesn't make sense to automatically assume that the telephone companies do so, in any event, because the market provides a strong check on rate increases.

There is plenty of competition in the telephone market: in addition to the traditional landline telephone, we have seen the rise of multiple national wireless companies aggressively competing for business. In 2005, the number of new wireless subscribers exceeded the number of new landline subscribers in many states. In fact, the total number of wireless subscribers could surpass the total number of wireline subscribers in 2006.

Even more exciting is the emergence of Internet telephony (VoIP), such as Vonage and Google Talk, which allows telephone service over the Internet. The build-out of broadband pipes, which franchise reform encourages, will give consumers VoIP options that they did not previous have. Since competition is all around us in the telephone market, the fear of telephone rate increases remains unfounded, and in fact, it's quite possible that phone rates may go *down* as a result of franchise reforms.

Myth: Television service is currently a natural monopoly, and therefore needs to be heavily regulated like a natural monopoly.

Reality: A natural monopoly occurs when one producer can supply the entire market at lower costs than multiple producers could. But the Federal Communications Commission recently found that "competition [in video services] provides consumers with increased choice, better services, higher quality, and greater technological innovation." Experience bears out that when it comes to video service, more competition means more competitive prices.

Cable television companies used to hold a near-monopoly status on the TV market, but that has changed dramatically with the evolution of technology. New direct broadcasting satellite (DBS) companies – like EchoStar and DirectTV – have gained a large market share over the years. (DBS's ascendancy in the market is due in part to the fact that they don't have to haggle with local bureaucrats to get a local franchise.) Now, phone companies can send television programming companies over their pipes, but local franchise laws prevent them from doing so. In the future, high-definition television over the Internet and TV over power lines could loom on the horizon, but theoretically they'd have to deal with the onerous local franchise regime as well.

We live in a world where technological innovation is bringing consumers plenty of choices and competition. All the government needs to do is get out of the way and let a thousand flowers bloom.

Myth: Without build-out requirements, video programmers will only serve the rich.

Reality: Once again, this is a speculative charge for which the opponents of franchise reform have no evidence. Build-out requirements are mandates that telecom companies build their networks out over the entire service area. Cable companies and "public interest" groups predict that without these requirements, broadband companies would choose to serve only the rich and ignore the poor, the rural and the elderly.

The logic doesn't make financial sense. No business will ignore a sizable chuck of their market when the demand for those services exists. Indiana's franchise reform did *not* include build-out requirements. Yet, shortly after the bill's passage, AT&T announced that they would expand their services to 33 rural Indiana communities.

Myth: Franchise reform unfairly favors the phone companies.

Reality: A deregulated video service industry, where competitors can easily enter the market without significant barriers to entry, favors all industries. Contrary to cable-funded ad campaigns, statewide franchises are not "sweetheart deals" that favor one industry. The legislation is industry-neutral. Cable, phone and power companies can all opt into statewide franchises if they provide video programming.

Some cable companies, which are currently bound to local franchise contracts, may initially face higher regulatory burdens than those under statewide franchises. But those local franchises will expire in a few years, at which point cable companies are free to opt into the statewide franchise. Statewide franchises don't exclude any one industry or company. A policy that allows cable companies to immediately opt out of local franchises and opt into statewide franchises would probably be the most transparent and fairest way to proceed.

Myth: Without local franchise laws, a locality would lose authority to manage its rights-of-way.

Reality: Opponents of franchise reform claim that, if given the chance, new video service providers will rip up the streets with impunity since there will no longer be any rights-of-way governing the behavior of telecom companies.

This is highly misleading, for public rights-of-way do not depend on local franchise laws to exist. While it is true that some local franchise laws codify rights-of-way management, there is nothing to prevent municipalities from managing rights-of-way in the absence of local franchise laws. That is an authority that cities and municipalities have always had, with or without local franchise laws. Cities currently regulate how and where power, water, and telephone companies lay their pipes on public property without a local franchise regime. Why should it be any different for cable television?

In fact, many cities *already* manage their cable rights-of-way separately from local franchise laws. It is therefore false a matter of fact for opponents to assert that the elimination of local franchise regulations would lead to telecom companies running roughshod over city streets and private property.